

CHAPTER 33 EDUCATING THE HOMELESS

281—33.1(256) Purpose. The purpose of these rules is to facilitate the enrollment of homeless children of school age in the public school districts of Iowa to enable them to have access to a free, appropriate public education.

281—33.2(256) Definitions.

“District of origin” is defined as the public school district in Iowa in which the child was last enrolled.

“Guardian” is defined as a person of majority age with whom a homeless child or youth of school age is living or a person of majority age who has accepted responsibility for the homeless child or youth, whether or not the person has legal guardianship over the child or youth.

“Homeless child or youth of school age” is defined as a child or youth between the ages of 5 and 21 who lacks a fixed, regular, and adequate nighttime residence and includes a child or youth who is living on the street, in a car, tent, or abandoned building or some other form of shelter not designed as a permanent home; who is living in a community shelter facility; or who is living with nonnuclear family members or with friends, who may or may not have legal guardianship over the child or youth of school age.

281—33.3(256) Responsibilities of the board of directors. The board of directors of a public school district shall:

1. Locate and identify homeless children or youth of school age who are found within the district, whether or not they are enrolled in school.
2. Post information encouraging homeless children and youth of school age to enroll in the public school at community shelters and other locations in the district where services or assistance is provided to the homeless.
3. Examine and revise, if necessary, existing school policies or rules that create barriers to the enrollment of homeless children or youth, consistent with these rules. School districts are encouraged to cooperate with homeless agencies and organizations to explore comprehensive, equivalent alternative educational programs and support services for homeless children and youth when necessary to implement the intent of these rules.

281—33.4(256) School records; student transfers. The school records of each homeless child or youth shall be maintained so that the records are available in a timely fashion when a child or youth enters a new school district, and in a manner consistent with federal statutes and regulations related to student records.

Upon notification that a homeless student intends to transfer out of the district, a school district shall immediately provide copies of the student’s permanent and cumulative records, or other evidence of placement or special needs, to the homeless child or youth or the parent or guardian of a homeless child or youth who may take the copies with them.

Upon the enrollment of a homeless child or youth, a school district shall accept copies of records, or other evidence of placement provided by the homeless child, youth, or the parent or guardian of the homeless child or youth, for purposes of immediate placement and delivery of education and support services. Thereafter, the receiving school shall request copies of the official records from the sending school. The receiving school shall not dismiss or deny further education to the homeless child or youth solely on the basis that the prior school records are unavailable.

281—33.5(256) Immunization requirements. Consistent with the provisions of Iowa Code section 139.9 and rules of the department of health, a public school shall not refuse to enroll or exclude a homeless child or youth for lack of immunization records if any of the following situations exist.

The parent or guardian of a homeless child or youth or a homeless child or youth:

1. Offers a statement signed by a doctor licensed by the state board of medical examiners specifying that in the doctor's opinion the immunizations required would be injurious to the health and well-being of the child or youth or to any member of the child or youth's family or household.
2. Provides an affidavit stating that the immunization conflicts with the tenets and practices of a recognized religious denomination of which the homeless child or youth is a member or adherent, unless the state board of health has determined and the director of health has declared an emergency or epidemic exists.
3. Has begun the required immunizations and is continuing to receive the necessary immunizations as rapidly as is medically feasible, or
4. Is a transfer student from any other school.

The school district shall make every effort to locate or verify the official immunization records of a homeless child or youth based upon information supplied by the child, youth, parent, or guardian. In circumstances where it is admitted that the homeless child or youth has not received some or all of the immunizations required by state law for enrollment and none of the exemptions listed above is applicable, the district shall refer the child, youth, and parent or guardian to the local board of health for the purpose of immunization, and the school shall provisionally enroll the child or youth in accordance with item "3" or "4" above.

281—33.6(256) Waiver of fees and charges encouraged. If a child or youth is determined to be homeless as defined by these rules, a school district is encouraged, subject to state law, to waive any fees or charges for materials or supplies that would present a barrier to the enrollment or transfer of the child or youth.

A homeless child or youth, or the parent or guardian of a homeless child or youth, who believes a school district has denied the child or youth entry to or continuance of an education in the district on the basis that mandatory fees cannot be paid may appeal to the department of education using the dispute resolution mechanism in rule 33.9.

281—33.7(256) Waiver of enrollment requirements encouraged; placement.

33.7(1) If a homeless child or youth seeks to enroll or to remain enrolled in a public school district, the district is encouraged to waive any requirements, such as mandatory enrollment in a minimum number of courses, which would constitute barriers to the education of the homeless child or youth.

33.7(2) In the event that a school district is unable to determine the appropriate grade or placement for a homeless child or youth because of inadequate, nonexistent, or missing student records, the district shall administer tests or utilize otherwise reasonable means to determine the appropriate grade level for the child or youth.

281—33.8(256) Residency of homeless child or youth.

33.8(1) A child or youth who meets the definition of homeless in these rules is entitled to receive a free, appropriate public education and necessary support services in either of the following:

- a. The district in which the homeless child or youth is actually residing, or
- b. The district of origin.

The deciding factor as to which district has the duty to enroll the homeless child or youth shall be the best interests of the child or youth.

33.8(2) The choice regarding placement shall be made regardless of whether the child or youth is living with a homeless parent or has been temporarily placed elsewhere by the parent(s); or, if the child or youth is a runaway or otherwise without benefit of parent or legal guardian, where the child or youth has elected to reside.

33.8(3) Insofar as possible, a school district shall not require a homeless student to change attendance centers within a school district when a homeless student changes places of residence within the district, unless the change of residence takes the student out of the category of homeless.

33.8(4) If a homeless child or youth is otherwise eligible and has made proper application to utilize the provisions of Iowa Code section 282.18, "Open Enrollment," the child or youth shall not be denied the opportunity for open enrollment on the basis of homelessness.

281—33.9(256) Dispute resolution. If a homeless child or youth is denied access to a free, appropriate public education in either the district of origin or the district in which the child or youth is actually living, or if the child or youth's parent or guardian believes that the child or youth's best interests have not been served by the decision of a school district, an appeal may be made to the department of education as follows:

33.9(1) If the child is identified as a special education student under Iowa Code chapter 256B, the manner of appeal shall be by letter from the homeless child or youth, or the homeless child or youth's parent or guardian, to the department of education as established in Iowa Code section 256B.6 and Iowa Administrative Code 281—41.32(17A,256B,290). The letter shall not be rejected for lack of notarization, however. Representatives of the public school district where the child or youth desires to attend and of the corresponding area education agency, as well as the child, youth, or parent or guardian of the child or youth, shall present themselves at the time and place designated by the department of education for hearing on the issue. The hearing shall be held in accordance with the rules established in 281—41.32(17A,256B,290).

33.9(2) If the child is not eligible for special education services, the manner of appeal shall be by letter from the homeless child or youth or the homeless child or youth's parent or guardian to the director of the department of education. The appeal shall not be refused for lack of notarization, however. Representatives of the public school districts denying access to the homeless child or youth and the child, youth, or parent or guardian of the child or youth shall present themselves at the time and place designated by the department of education for hearing on the issue. The provisions of 281—Chapter 6 shall be applicable insofar as possible; however, the hearing shall take place in the district where the homeless child or youth is located, or at a location convenient to the appealing party.

33.9(3) At any time a school district denies access to a homeless child or youth, the district shall notify in writing the child or youth, and the child or youth's parent or guardian, if any, of the right to appeal and manner of appeal to the department of education for resolution of the dispute, and shall document the notice given. The notice shall contain the name, address, and telephone number of the legal services office in the area.

33.9(4) This chapter shall be considered by the presiding officer or administrative law judge assigned to hear the case.

33.9(5) Nothing in these rules shall operate to prohibit mediation and settlement of the dispute short of hearing.

281—33.10(256) Transportation of homeless children and youth.

33.10(1) Intent. A child or youth who meets the definition of homeless in these rules shall not be denied access to a free, appropriate public education solely on the basis of transportation. The necessity for and feasibility of transportation shall be considered, however, in deciding which of two districts would be in the best interests of the homeless child or youth. The dispute resolution procedures in rule 33.9(256) are applicable to disputes arising over transportation issues.

33.10(2) Entitlement. Following the determination of the homeless child or youth's appropriate school district under rule 33.8(256) or 33.9(256), transportation shall be provided to the child or youth in the following manner:

a. If the appropriate district is determined to be the district in which the child or youth is actually living, transportation for the homeless child or youth shall be provided on the same basis as for any resident child of the district, as established by Iowa Code section 285.1 or local board policy.

b. If the appropriate district is determined to be the district of origin of the homeless child or youth, and the district of origin is contiguous to the district in which the child or youth is actually living, the district in which the child or youth is actually living (sending district) is responsible for transportation. The sending district shall be responsible for providing transportation or paying the pro rata cost of the transportation to the parent or guardian for transporting the child or youth to and from a point on a regular school bus route of the contiguous receiving district. However, a decision to reimburse the parent or guardian rather than provide transportation shall not be made by the sending district if the parent or guardian is unable to regularly transport the child or youth to the designated stop.

The district of origin now designated for the pupil's enrollment shall have the primary responsibility to transport the child from the point on a regular bus route within the district to the appropriate designated attendance center.

c. If the appropriate district is determined to be the district of origin of the homeless child or youth, and the district of origin is not contiguous to the district in which the child or youth is actually living, the district in which the child or youth is actually living is responsible to transport the homeless child or youth only if the district has an established route that passes through or terminates in the district of origin now designated for the pupil's enrollment.

281—33.11(256) School services. The school district designated for the pupil's enrollment shall make available to the homeless child or youth all services and assistance including but not limited to compensatory education, special education, English as a second language, vocational courses or programs, programs for gifted and talented pupils, health services, and food and nutrition programs, on the same basis as those services and assistance are provided to resident pupils.

These rules are intended to implement the provisions of the Stewart B. McKinney Homeless Assistance Act, 42 U.S.C. §11431 et seq.

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